

CITY OF MORGAN HILL  
JOINT REGULAR CITY COUNCIL AND  
SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES - JUNE 20, 2001

**CALL TO ORDER**

Mayor Pro Tempore/Agency Member Sellers called the regular and special meeting to order at 7:02 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Chang, Sellers, Tate  
Absent: Mayor/Chairman Kennedy

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

At the invitation of Mayor Pro Tempore Sellers, Don Amend, of TBI Corporation, led the Pledge of Allegiance.

**INTRODUCTIONS**

Mori Struve, Deputy Director of Public Works, introduced the following new employees to the Department: Fred Gomez, Parks Maintenance Worker I; Tony Haro, Parks Groundskeeper; Tim Johnson, Parks Groundskeeper; and Robert Romo, Parks Groundskeeper.

**CITY COUNCIL REPORT**

Council Member Tate spoke on the importance of studying the budget proposals, knowing the budget presented for adoption this evening represented a "good planning" document. He indicated encouragement at the level of commitment by the department heads and the employees to the challenging work they had presented in the completion of the budget. He encouraged citizens and visitors to become involved in the events planned for the Fourth of July by the Independence Day Inc. Committee.

**CITY MANAGER'S REPORT**

City Manager Tewes thanked the Mayor and City Council for the support given during the negotiations and ratification of the employee contracts on behalf of the employees. He said that the budget represents the solvency of the city, noting the annual contracts represent services for the residents which are dependent on the budget process for continuity. He said that though the process is long and arduous with annual questions on the best way for processing the budget to have the data

presented to the Council for decision-making, the process was well served in the manner demonstrated during this cycle.

### **CITY ATTORNEY'S REPORT**

City Attorney Leichter stated that she did not have a City Attorney's report to present this evening.

### **PUBLIC COMMENTS**

Mayor Pro Tempore/Agency Member Sellers opened the floor to public comments for items not appearing on the Agenda. No comments were offered.

## ***City Council Action***

### **CONSENT CALENDAR:**

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **approved** Consent Calendar Items 1-19 as follows:*

1)        **MAY 2001 FINANCE AND INVESTMENT REPORT**

**Action:** ***Accepted** and **Filed** Report.*

2)        **SANTA CLARA COUNTY LIBRARY AGREEMENT FOR FUNDING OF DESIGN OF PROPOSED LIBRARY IN AN AMOUNT NOT-TO-EXCEED \$679,995.00**

**Action:** ***Authorized** the City Manager to Enter into Agreement with the Santa Clara County Library Joint Powers Authority for Development of Design Documents for the Construction of a Renovated or New Library Facility.*

3)        **ADOPTION OF REVISED JOB DESCRIPTIONS AND SALARY RANGES FOR THE POSITIONS OF BUILDING INSPECTOR/FACILITIES MAINTENANCE COORDINATOR AND UTILITY SUPERVISOR**

**Action:** *1) **Adopted** the Revised Job Description and Salary Range for Position of Building Inspector/Facilities Maintenance Coordinator; and 2) **Adopted** the Revised Job Description and Salary Range for Position of Utility Supervisor.*

4)        **APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES (AFSCME), LOCAL 101**

**Action:** ***Approved** Two-year Memorandum of Understanding with AFSCME Local 101.*

5)        **APPROVAL OF RESOLUTION NUMBER 5486 PROVIDING COMPENSATION FOR CITY OF MORGAN HILL MANAGEMENT AND CONFIDENTIAL EMPLOYEES, AND APPROVAL OF COMPENSATION FOR UNREPRESENTED EMPLOYEES - Resolution No. 5486**

**Action:** *1) **Adopted** Management Resolution No. 5486, and 2) **Approved** Proposed*

*Compensation Changes for Unrepresented Employees as Outlined in Attachment B.*

- 6) **APPROVAL OF RESOLUTION ELECTING TO BE SUBJECT TO PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT ONLY WITH RESPECT TO MEMBERS OF A SPECIFIC EMPLOYEE ORGANIZATION AND FIXING THE EMPLOYER'S CONTRIBUTION - Resolution No. 5493**  
*Action: **Adopted** Resolution No. 5493.*
- 7) **CONTRACT FOR DOCUMENT IMAGING SYSTEM AND RELATED TECHNICAL TRAINING AND SUPPORT**  
*Action: 1) **Awarded** Contract; and 2) **Authorized** the City Manager to Execute a Contract with IKON Business Information Services for a Document Imaging System at a Cost Not to Exceed \$45,307.*
- 8) **PROFESSIONAL SERVICES AGREEMENT FOR SCADA SYSTEM UPGRADE**  
*Action: **Authorized** the City Manager to Enter into a Consultant Agreement with Carollo Engineers for the Design of the Supervisory Control and Data Acquisition System (SCADA) Upgrade, Not-to-Exceed \$108,000.*
- 9) **PROFESSIONAL SERVICES AGREEMENT FOR BOYS RANCH RESERVOIR SOILS ENGINEERING SERVICES**  
*Action: **Authorized** the City Manager to Enter into a Consultant Agreement with Lowney Associates for Soils Engineering at the Boys Ranch Reservoir site, Not-to-Exceed \$49,500.*
- 10) **APPROVAL OF EXTRA WORK PURSUANT TO MORGAN HILL PARTNERS SUPPLEMENTAL AGREEMENT FOR BOYS RANCH RESERVOIR WORK**  
*Action: 1) **Authorized** Extra Work Pursuant to the May 6, 1998 Supplemental Agreement for Extra Civil Engineering Work, for Additional Sum of \$4,557; and 2) **Authorized** Final Payment of \$22,106 to Venture Corporation.*
- 11) **APPROVAL OF PROFESSIONAL SERVICES CONTRACT FOR ARCHITECTURAL DESIGN OF THE PUBLIC WORKS OFFICE EXPANSION PROJECT**  
*Action: **Authorized** the City Manager to Execute a Consultant Services Agreement for Architectural Design Services for the Public Works Office Expansion Project at a Cost Not-to-Exceed \$51,300 with RMW Architecture & Interiors.*
- 12) **APPROVAL OF PROFESSIONAL SERVICES CONTRACT FOR DESIGN SERVICES RELATED TO THE COMMUNITY PLAYHOUSE PROJECT**  
*Action: **Authorized** the City Manager to Execute a Consultant Services Agreement for Design Services Related to the Community Playhouse Project at a Cost Not-to-Exceed \$25,460 with Harris & Associates.*
- 13) **ACCEPTANCE OF THE CITY OF MORGAN HILL WEST ANNEX PARKING LOT AND UTILITY IMPROVEMENTS PROJECT**  
*Action: 1) **Accepted** as Complete the West Annex Parking Lot and Utility Improvements Project in the Final Amount of \$385,055; and 2) **Directed** the City Clerk File the Notice of*

*Completion with the County Recorder's Office.*

- 14) **FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT - Resolution No. 5490, 5491 & 5492**  
*Action: 1) **Adopted** Resolution No. 5490 to Initiate the Proceedings for the Levy of Assessments for Fiscal Year 2001-02, 2) **Adopted** Resolution No. 5491 to Provide Preliminary Approval of the Engineer's Report and the Proposed Assessment Levy; and 3) **Adopted** Resolution No. 5492 to Declare the City Council's Intention to Levy the Assessments in the District and to Set the Public Hearing Date for July 25, 2001.*
- 15) **MADRONE BUSINESS PARK ASSESSMENT DISTRICT ACQUISITION AGREEMENT AMENDMENT**  
*Action: **Approved** Amendment No. 1 to the Acquisition Agreement with Toeniskoetter & Breeding, Inc. Development.*
- 16) **HOUSEHOLD HAZARDOUS WASTE MANAGEMENT CONTRACT**  
*Action: **Authorized** the City Manager to Execute the First Amendment to the Agency Agreement for Countywide Household Hazardous Waste Collection Program in the Amount of \$20,000 of City Funds.*
- 17) **HOUSING ELEMENT ADVISORY COMMITTEE**  
*Action: 1) **Approved** Recommended Make Up of Advisory Committee for the Housing Element Update; and 2) **Authorized** the City Clerk to Advertise and Recruit Applicants for the Advisory Committee.*
- 18) **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) 2001 QUARTERLY REPORT NO. 2**  
*Action: **Accepted** the Report by Minute Action.*
- 19) **JOINT SPECIAL CITY COUNCIL AND SPECIAL PLANNING COMMISSION MEETING MINUTES OF JUNE 6, 2001**  
*Action: **Approved** the minutes as written.*

Mayor Pro Tem Sellers asked that it be noted he was particularly pleased that two items on the consent calendar, new Library and the Community Playhouse, worked on by so many, were being "put on the road" to success and completion.

At the request of Council Member Tate, item 32 was addressed at this time.

- 32) **DEVELOPMENT ASSETS APPROACH AS A FRAMEWORK GUIDING ALL YOUTH-RELATED POLICIES AND PROGRAMS IN THE CITY - Resolution No. 5487**

Council Member Tate reported that he has been involved with, and highly supportive of, the development asset(s) approach for delivery and measurement of youth policies and services in the program since becoming acquainted with the concept two years ago. He said it is an easily understood and explained approach to service delivery for programs benefitting youth. He further

indicated that the Cornerstone Project, with a total of 40 developmental assets (20 each internal and external) is measurable and provides a baseline whereby the services can be coordinated and compared in the City and County against National levels. However, he said the true worth of the program is gaining an understanding of, and being able to work with, the City's youth.

Mayor Pro Tempore/Agency Member Sellers opened the floor to public comments.

Akemi Flynn, 1922 The Alameda, indicated that as part of the County-wide collaborative partnership to provide building blocks of development asset approaches to increased service to youth in the communities, she was delighted to be present at this meeting when Morgan Hill becomes the first City Council to adopt the framework for making youth a top priority. She said other leaders throughout the area would look to the accomplishments of Morgan Hill as an example of this role modeling for supporting and challenging youth to high achievement, indicating the Youth Advisory Committee (YAC) was instrumental in actualizing the plan for the future. She praised the Council Members for their part in this important event.

Terry Nelson, YMCA, said she was proud to be in attendance at the time the City Council takes this historic step, commending the Council Members, especially the Mayor and Council Member Tate, for commitment to this venture.

No further comments were offered.

Council Member Tate gave an overview of the involvement both he and Mayor Kennedy have had with the development of the framework for providing guidance for all youth related Policies and Programs in the City. He further noted, in response to a question from Mayor Pro Tempore Sellers, that the local school districts are engaged in similar efforts and that cooperative efforts were taking place to avoid duplication, but enhance efforts of services.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote (Mayor Kennedy absent), **Adopted** Resolution No. 5487 Which sets Forth the Development Assets Approach as a Framework Guiding All Youth-Related Policies and Programs in the City.*

In the interest of continuity and time, items 30 and 31 were taken out of order.

### **30)     APPEAL OF NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 1710**

Assistant to the City Manager Eulo presented the staff report. The proposal, which would require a minimum of four-person staffing of fire companies and response for career departments of no more than four minutes for initial response and eight minutes for full-alarm response 90 percent of the time and supported by the membership of the National Fire Protection Association, removes the ability of the establishment of local standards. The City's Fire Master Planning Process, now underway, will establish local standards and recommend specific approaches to match the City's particular needs. Noting opposition by the League of California Cities to the measure, he indicated it would be in order for the City of Morgan Hill to join the League's official appeal to the standards as set forth in 1710. d

Mayor Pro Tempore Sellers opened the floor to public comment. No comments were offered.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **directed** Staff to prepare a letter stating the City's opposition to NFPA 1710; and further to notify the League that the City supports the appeal*

### **31)    ARCHITECTURAL AND SITE REVIEW BOARD (ARB) TERMS OF OFFICE**

City Manager Tewes presented the staff report and indicated that the City Council recently appointed five members to the Architectural and Site Review Board (ARB). The ARB will begin meeting this week; noting that there is a need to determine the schedule of appointment for the membership of the ARB.

Mayor Pro Tempore Sellers opened the floor to public comment. No comments were offered.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **appointed** Yarmila Kennett and John Simon to one-year terms of office expiring March 1, 2002; and James Fruit, Jerry Pyle, and Rod Martin having two-year terms of office expiring March 2, 2003.*

### **PUBLIC HEARINGS:**

#### **20)    ZONING AMENDMENT, ZA-00-14: OAK PARK - GENTILE**

Director of Community Development Bischoff presented the staff report, indicating that this application is a request to amend the precise development plan on an R-1-7,000/RPD zoning district to allow for a second story addition to the unit located at 955 Oak Park Drive. The subject site is 3,280 square feet in size and has a zero setback on the north side. Due to the positioning of the unit on the lot (zero setback) and the size of the lot, a second story addition could not feasibly be constructed in compliance with the current setback requirements of the R-1-7000/RPD zoning district. An amendment to the precise development plan is required to allow for the building addition. The subject unit currently contains a second story, of approximately 559 square feet. The applicant is requesting to add 490 square feet of second story area along the front (west) and a portion of the rear (east) elevation. Construction of the addition would increase the building height by approximately 4-feet, resulting in an overall height of 26 feet. The Zoning Code currently allows a maximum height of 30 feet. It is proposed that the materials and colors of the addition be compatible with the existing building. The proposed addition has been reviewed and approved by the homeowners association. At the May 22, 2001 Planning Commission meeting, opposition to the request was made, citing the size and location of the proposed addition by an adjoining neighbor-resident. The neighbor stated her concerns regarding loss of light with increased shading and loss of privacy. Following discussion, the Planning Commission voted 4-2 in favor of the front second story addition only.

Mayor Pro Tempore Sellers opened the public hearing.

Alfonso Gentile, applicant, stated that he has owned the house for nine years and has written approval from the homeowners association. He clarified the data previously provided to the Planning Commission and City Council regarding the projection of solar light, saying it would actually be about 20 - 25% instead of 60%. He has, out of the voiced concern of loss of privacy by the neighbor, removed the proposed balcony and recessed the window, eliminating the door to the outside as well. He said he has talked to the neighbor but has been unable to reach resolution of the dispute. The neighbor feels the structure would be too massive and that he has offered to provide mitigation through landscape to no avail. He would like to have the addition for a third bedroom as well as to provide additional attic storage space.

Patricia Pekrol, 965 Oak Park Drive, informed the City Council that the issue was not how far apart the homes in the subdivision were but how close they were. Further, the issue was not only the balcony but the entire rear addition which she believes would block sunlight to her property, eliminating warmth and restricting the amount of useful natural light entered into her dwelling. The enormity of the additions would create a wall which would be massive facing her property. She said the 9-foot ceiling would result in the addition being an eyesore for the neighborhood. She requested that the ceiling be reduced by at least two feet and redesigned with a sloping ceiling. She concurred that negotiations for agreement have reached an impasse.

No further comments being offered, the public hearing was closed.

Mr. Bischoff informed the applicant that the information presented regarding the engineering calculations needed to be presented to the Planning Department as this was new information.

Council Member Tate said it sounds as though an effort at a compromise is in the works. He suggested the matter be returned to the Planning Commission as this body usually helps mediate concerns and proposals.

Mayor Pro Tempore Sellers asked the applicant if the reduction of the ceiling by 2-feet was acceptable? Mr. Gentile said such a reduction would ruin the whole architectural effect; perhaps a 1-foot reduction would be possible, but the effect on the downstairs aesthetics would be destroyed.

Council Member Carr asked if other homes in the subdivision had undergone additions or renovations? Mr. Gentile replied his would be the first. He also noted that he began the efforts of remodeling in 1992 when he purchased and moved to the property.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council, on a 4-0 vote with Mayor Kennedy absent, **continued** this item to the July 11 meeting, requesting Planning Staff to pursue mediation with both parties in the meantime.*

**21)     DEVELOPMENT AGREEMENT AMENDMENT, DAA-00-08: BERKSHIRE-SHING  
         - Ordinance No. 1516, New Series**

Director of Community Development Bischoff presented the staff report, noting that the request is for approval of a one-year extension of a development agreement for four building allotments of a four-unit single-family project, located on the northeast corner of Hale Avenue and Llagas Road.

He advised the City Council that the delay was not the fault of the applicant, but a series of misunderstandings with the requirements of Santa Clara County for completion of the project which has resulted in the request. In response to a question from Council Member Carr, Mr. Bischoff told Council Members that the County had delayed information and decision making to the applicant. Accordingly, the Council is asked to give an extension regarding the County-required road improvements providing ingress/egress to the project.

Council Members discussed the feasibility of communicating their displeasure at the practice adhered to by the County, noting it is unfair to City residents. Mr. Bischoff agreed it would be a good policy for Planning Staff to meet with County Staff when a tentative map is received which might require County involvement.

Mayor Pro Tempore Sellers said a major concern is, and has been, that the County changes its mind regarding the standards at the last minute, wanting additional land for right of way and different configuration for road design which causes the City to have safety issues.

Mayor Pro Tempore Sellers opened the floor to public comment. No comments being offered, the public hearing was closed.

Deputy Director of Public Works Keaton gave a brief overview of the County's actions of the early 1970s when the Plan Line was set in place to regulate the size of Hale Avenue. He noted the Plan Line was never adopted by the City but the County retained the reservation of right-of-way(s). He said it appears the County wants to retain control of those rights-of-way.

City Manager Tewes interjected that the County is reserving the right of way but not generally requiring increased size(s) of paving.

Council Member Tate stated a belief that because of the conflict and the ongoing County policy, this land owner is suffering a loss of 9-feet of property.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council, on a 4-0 vote with Mayor Kennedy absent, **waived** the reading in full of the Zoning Amendment (ZA) Ordinance No. 1516, New Series.*

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council **introduced** Ordinance No. 1516, New Series, by Title Only as follows; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1493, NEW SERIES TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-01: BERKSHIRE-SINGH TO ALLOW FOR A ONE-YEAR EXTENSION OF TIME (APN 764-23-054) by the following roll call vote: AYES: Carr Chang, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy.*

**22)    ZONING AMENDMENT, ZA-01-03: CITY OF MORGAN HILL - ZONING TEXT AMENDMENT**

Director of Community Development Bischoff gave the staff report. The request is to amend Title



18 of the Morgan Hill Municipal Code, the Planning and Land Use Codes, to add new zoning definitions and text regarding the storage and parking of vehicles in residential yards and zoning districts. He indicated the Municipal Code currently prohibits storage in yards of residential districts. However, the text is not clear as to what can or cannot be parked/stored in residential yards and where they can be parked/stored. In addition, the code does not provide an enforcement procedure for remedying code violations, which contributes to having repeat offenders. He said the zoning language is believed, by many City residents, to be difficult to understand. These amendments are intended to clarify what items can be parked and/or stored in residential yards in a clear, concise manner, and to establish an enforcement procedure to remedy code violations. Initially presented to the Planning Commission at the March 27 meeting, concerns were voiced by a member of the public that the language was ambiguous and lacked enforceability. He said that as a result of meetings with the City Attorney and members of the public, a slightly modified zoning text amendment was unanimously recommended to the City Council for approval.

Council Members asked questions regarding the amendment, to which Mr. Bischoff and City Attorney Leichter responded:

- ▶ is the application to be to registered vehicles [no, only to unregistered as identified by the CVC]
- ▶ parking on the right of way/street-curb side
- ▶ use of side yards for parking vehicles, boats, RVs
- ▶ data regarding past complaints [22 notices of violation in past six months] and enforcement efforts [all came into compliance]
- ▶ ability to have vehicles parked in private driveways during family trips, large numbers of personal vehicles by residents

Mayor Pro Tempore Sellers opened the floor to public comment.

Peter Burcat, 16360 Monterey Road, told Council Members that when the amendment was first presented, voiced objections on the grounds of non-user-friendly language, and that he does not see improvements in the document before the City Council. He recommended the matter be returned to the Planning Commission for further work, citing the presentation of a four-page letter with recommendations which he said had been ignored. He asked the Council for the opportunity to be involved in working toward a user-friendly, workable document. He stated a belief that the original objective of removing Recreational Vehicles from driveway storage was not effective in the language of this amendment. He felt that the ordinance is still vague and lacks the ability to be enforced.

There being no others present to address the issue, the public hearing was closed.

City Attorney Leichter told the Council Members the ordinance amendments were the result of code enforcement issues. She said she had gone over the letter of comments from Mr. Burcat and is not convinced the ordinance is vague nor unenforceable. She noted that the ordinance is aimed, generally, at habitual offenders and that punitive action takes Council involvement, (i.e., hearings, decision-making, etc.).

Mayor Pro Tempore Sellers said that the penalty section (vehicle taking and destruction) needs some

mention of mitigation. City Attorney Leichter replied that the need for and availability to appropriate due process, pursuant to City Council direction, is implied.

Council Member Chang discussed concerns for private autos at such time when residents are away for extended trips. She felt that the 72 hours for an RV may be good but that it is too restrictive for automobiles.

Council Member Carr agreed with Council Member Chang.

City Attorney Leichter said that to her knowledge, an operable vehicle had never been tagged.

Council Member Tate said it should be made clear as to whether or not cars would be allowed to park in a private driveway.

Mayor Pro Tempore Sellers said the ordinance is good in that it is enforced on a complaint basis.

Mr. Bischoff offered to have staff work on alternative language for Council consideration on July 25.

**Action:**        *On a motion by Council Member Chang and seconded by Council Member Tate, the City Council, on a 4-0 with Mayor Kennedy absent, **continued** this item to the July 25 meeting, requesting Planning Staff to investigate alternative language for presentation at that time.*

**23)     TEXT AMENDMENT-REVISION TO RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) STANDARDS AND CRITERIA. APPLICATION ZA-01-08**

Director of Community Development Bischoff presented the staff report, indicating that the Planning Commission has completed its mandated review of the standards and criteria following the 2000-01 Measure P competition. A Subcommittee [comprising of three Commissioners and two developers, with consultation and input from Planning Department staff] was appointed to evaluate proposed change(s) for recommendation to the City Council. Recommendations of the Subcommittee were presented to and considered by the Commissioners at the May 22 meeting. On June 6, Council Members participated in a workshop with members of the Subcommittee at which time the recommended changes to Measure P evaluation criteria were reviewed.

Suggestions at the workshop included:

- ▶        Evaluation criteria be amended to award points for residential projects that provide home solar or wind electric generation. Staff incorporated this in amended Section 18.78.280.2(a) of the Quality of Construction category to award up to two (2) points for home that include roof mounted solar panels and/or wind generators for electric power generation.
- ▶        Incorporation of changes requested by the School District in Section 1

Mayor Pro Tempore Sellers opened the public hearing.

Dick Oliver, 275 Saratoga Ave, said he appreciated being on the Subcommittee and that he generally supports the recommended changes; however, there are two areas of concern to him:

- 1) Open Space category, B1a - he said the language affects redesign of projects as required by the Commission, (e.g., as in a buffer zone). To remedy this problem, he suggested a “grand fathering” mechanism be built into the recommendations. This type of justification would ensure fairness in awarding points.
- 2) Orderly and Contiguous category [page 4, paragraph 2] - he indicated that a point has been taken away regarding water related issues, resulting in greater disadvantages to projects that may max out.

Other than these two concerns, Mr. Oliver stated that the changes are good and the results should be fair.

Peter Burcat, 16360 Monterey Road, spoke in support of the language changes. He said that the addition of a section regarding solar energy was a plus for the community. He recommended the Subcommittee for the work done, adding that he totally and fully supports the Mayor’s efforts of the inclusion of solar energy enhancement language.

There being no others wishing to address the issue, the public hearing was closed.

Council Member Tate said that while he likes the efforts of emphasizing renewable energy, he foresees problems with the method suggested for accomplishment. He indicated there needs to be more emphasis for incentives. As presented, he said the efforts merely expand options in areas where the points can be maxed out too easily.

Mayor Pro Tempore Sellers reminded that at the workshop, those developers attending understood that they may not be able to achieve the maximum number of points in the renewable energy area(s) for at least a year or two, but that this was a good starting point.

Council Members Carr and Tate questioned whether the section on renewable energy should be inserted next year instead of this year? Mayor Pro Tempore Sellers urged that it be left in rather than have it become a big issue next year. Council Member Chang said she was comfortable with the language and spoke of the use of wind in the category because it is readily available (most afternoons) in the City and is inexpensive.

In response to the concerns raised by Mr. Oliver, Council Member Carr said he had previously raised the issue of “grand fathering” as a change in “midstream” impacts developers, sometimes prolonging the time for completion of developments. He questioned whether there is a true emphasis on open competition to existing projects, noting that the developers spend dollars at the suggestion of decision making bodies and might not be able to complete the project if the rules change. He expressed concern that often rules change, causing negative efforts to developers who began work under original rules.

Council Members Tate and Chang said they sympathized with the issue raised, but had gained the impression at the workshop that the Staff, Commissioners, and perhaps the Council Members as well

were leaning toward set asides for on-going projects.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council, on a 4-0 vote with Mayor Kennedy absent, **continued** this item to July 11, 2001.*

## ***City Council & Redevelopment Agency Action***

### **PUBLIC HEARING:**

#### **24)    PUBLIC HEARING FOR ADOPTION OF 2001/2002 BUDGET - Resolution Nos. 5489 & MHRA-231**

Finance Director Dilles presented the staff report, noting that the presentation of the preliminary Budget had been made on May 16. Some additional spending items had been added on June 8, (e.g., \$15,000 for the YMCA; \$100,000 for study of traffic options for keeping regular/commuter traffic on Highway 101). He provided a four-page handout to those present which contained fund balance summaries. He called attention to on-going projects which had received current year funding, saying those projects must be re-budgeted each year until completion. He also reported healthy reserves to the comfort and confidence of all present.

Mayor Pro Tempore/Agency Member Sellers opened the public hearing.

City Treasurer Roorda said he wanted to publically acknowledge the hard work of the Finance Director and the Finance Department staff for the production of very thorough documents and the successful fiscal cycle projections. He said it is important to note that for the future, there is a \$2.5 million fire service budget. He felt that it was essential to explore funding for proposed capital expansion of the fire services for City residents.

There being no others present to address the issue, the public hearing was closed.

Council/Agency Member Chang said she was happy to see the budget prepared/presented nicely. She expressed concern with hiring 14 additional staff members. However, this concern will not prevent her from supporting the budget as presented.

Council/Agency Member Tate felt that the budget projections appear to be strong and stated that he would support the approval of the budget documents.

Council/Agency Member Carr indicated he appreciated the process, noting the final document presents objectives based on the City Council goals for the community.

City Manager Tewes offered thanks to the City Council for their attendance and attention during the workshop, noting that the Department Heads fully justified the proposed expenditures. He felt that the City is in the strongest financial position in the face of potential economic downturn and that the city is keeping its spending in line with healthy reserves. The City has retained a very healthy sales tax base, unlike surrounding areas. He said that the City anticipates continuation of prudent

financial management and actions by the City Council.

**Action:** *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **adopted** Resolution No. 5489, adopting the 2001/02 annual City budget and the appropriations limit for fiscal year 2001/02.*

**Action:** *On a motion by Agency Member Tate and seconded by Vice-chairman Carr, the Agency Commission, on a 4-0 vote with Chairman Kennedy absent, **adopted** Resolution No. MHRA - 231 adopting the 2001/02 Annual Agency Budget for fiscal year 2001/02.*

**Action:** *On a motion by Council/Agency Member Tate and seconded by Council Member/Vice-chairman Carr, the City Council/Agency Commission, on a 4-0 vote with Mayor/Chairman Kennedy absent, **approved** the Capital Improvement Plan.*

## ***City Council Action***

### **CONSENT CALENDAR: (continued)**

Council Member Tate requested that Consent Calendar Items 25 and 28 be pulled from the Consent Calendar.

**Action:** *On a motion by Council Member Carr and seconded by Council Member Chang, the City Council, on a 4-0 vote with Mayor Kennedy absent, **approved** Consent Calendar Items 26-27-and 29 as follows:*

**26) AWARD OF CONTRACT TO PROVIDE PUBLIC WORKS INSPECTIONS SERVICES ON AN AS-NEEDED BASIS**

**Actions:** 1) **Approved** the FY01-02 Professional Services Contract with Testing Engineers, Inc. (TEI) to Provide Public Works Inspection Services on an As-Needed Basis at a Not-to-Exceed Cost of \$127,000; and 2) **Authorized** the City Manager to Execute the Contract.

**27) RESOLUTION APPROVING AGREEMENT WITH THE UNION PACIFIC RAIL ROAD (UPRR) FOR IMPROVEMENT COSTS ASSOCIATED WITH THE MAIN AVE/UPRR AT-GRADE CROSSING - Resolution No. 5488**

**Action:** **Adopted** Resolution No. 5488 Approving the Agreement for Cost Reimbursement for the Construction of Concrete Panels at the Main Ave/UPRR At-Grade Crossing Improvements.

**29) AWARD OF CONTRACT TO PROVIDE PLAN CHECKING SERVICES ON AN AS-NEEDED BASIS**

**Action:** 1) **Approved** the FY 01-02 Contract with Harris & Associates to Provide Contract Plan Checking Services on an As-Needed Basis at a Not-to-exceed Fee of \$95,000; and 2) **Authorized** the City Manager to Execute the Contract.

**25) APPROVAL OF PROFESSIONAL SERVICES AGREEMENT FOR DESIGN OF 2001-02 STREET RESURFACING PROJECT**

Council Member Tate asked if the proposed expenditure is warranted in view of the perceived lack of use on El Toro? Deputy Director of Public Works Struve responded that the proposed work is being done in the interest of safety for workers who must use the road on a regular basis. The road, he said, had become badly in need of repair and it is now judged to be unsafe for travel.

**Action:** *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council, on a 4-0 vote with Mayor Kennedy absent, 1) Approved Harris and Associates Proposal for Design Services for the 2001-02 Streets Resurfacing Project; and 2) Authorized the City Manager to Enter into an Agreement with Harris and Associates in an Amount Not-to-Exceed \$136,265.*

**28) PUBLIC WORKS MAINTENANCE CONTRACTS FOR FY 2001-2002**

Council Member Tate questioned whether the recommended action would approve a two-year commitment rather than a one-year budget-item commitment? City Manager Tewes and Deputy Director of Public Works Struve explained that the second year is non-binding in the event of unsatisfactory work. Should the work during the first year be satisfactory, the contract can be extended to the second year. City Manager Tewes stressed such contracts depend on appropriateness to, and of, the work completed.

**Action:** *On a motion by Council Member Carr and seconded by Council Member Chang, the City Council, on a 4-0 vote with Mayor Kennedy absent, 1) Approved Funds for and Award the Maintenance Contracts for: (1) Labor Services for Potable Water Sampling and Analysis, (2) Emergency Pump Maintenance and Repair for Booster Stations, (3) Landscape Maintenance Services, (4) Generator Maintenance Services, (5) Traffic-Signal maintenance and (6) Meter Maintenance, Calibration and Replacement Services; and 2) Approved One Year Extensions to Agreements for (1) Telekey SCADA Systems, Inc., (2) County of Santa Clara - Striping of Traffic Lane Lines/Legends/School Crossings and (3) Shimada Landscape, Inc.*

**33) COMPUTER SUPPORT SERVICES CONTRACT**

Assistant to the City Manager Eulo presented the Staff report, noting that the figures needed clarification. The numbers are: a base contract of \$149,000 with a potential incentive of 10% (\$14,900), the incentive being tied to performance standards. He noted that if the performance standards were not met, the contract could be reduced on a sliding scale. The total amount of the contract with the modifications noted is to be \$163,000. In considering the contract, he indicated there were some minor matters of concern which the City Attorney was addressing with the Contractor.

**Action:** *On a motion by Council Member Carr and seconded by Council Member Chang, the City Council, on a 4-0 vote with Mayor Kennedy absent, authorized the City Manager to Execute the Agreement for Computer Support Services in the Amount of \$163,000.*

**34) ADOPTION OF ORDINANCE NO. 1511, NEW SERIES**

**Action:** *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council **Adopted** Ordinance No. 1511, New Series, as follows: An Ordinance of the City Council of the City of Morgan Hill Approving a Development Agreement for a 14-unit Portion of a Single-Family Housing Project on a 20-Acre Site Located on the South Side of E. Dunne Ave., Adjacent to the East Side of the Church Located at 1790 E. Dunne Ave. (APN 817-19-009 & 49) by the following roll call vote: AYES: Carr, Chang, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy.*

**35) ADOPTION OF ORDINANCE NO. 1512, NEW SERIES**

**Action:** *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council **Adopted** Ordinance No. 1512, New Series, as follows: An Ordinance of the City Council of the City of Morgan Hill Approving a Development Agreement and a Six-month Exception to the Loss of Building Allotment for a 4-lot Subdivision Which Was Awarded Allocations Through the Residential Development Control System for FY 2000-2001 (One Unit) and FY 2001-02 (Three Units) (APN 728-11-026) by the following roll call vote: AYES: Carr, Sellers, Tate; NOES: None; ABSTAIN: Chang; ABSENT: Kennedy.*

**36) ADOPTION OF ORDINANCE NO. 1513, NEW SERIES**

**Action:** *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council **Adopted** Ordinance No. 1513, New Series, as follows: An Ordinance of the City Council of the City of Morgan Hill Approving an Amendment to Ordinance No. 1457, New Series, to Amend the Development Agreement to Incorporate a One Year Exception to the Loss of Building Allocation for Application MP-99-12: Hale Ave.-Glenrock. (APN 764-09-05, 07, 08, 09, 10 & 14) by the following roll call vote: AYES: Carr, Chang, Sellers, Tate; NOES: None; ABSTAIN: None, ABSENT: Kennedy.*

## ***City Council & Redevelopment Agency Action***

**CONSENT CALENDAR:**

**Action:** *On a motion by Council/Agency Member Tate and seconded by Council Member/Vice-chairman Carr, the Council/Agency Commission, on a 4-0 vote with Mayor/Chairman Kennedy absent, **approved** Consent Calendar Items 37-40 as follows:*

**37) JOINT REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF MAY 30, 2001**

**Action:** ***Approved** the Minutes as Written.*

**38) JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF MAY 30, 2001**

**Action:** ***Approved** the Minutes as Written.*

**39) JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY**

**CLOSED SESSION MEETING MINUTES OF JUNE 6, 2001**

**Action:** *Approved the Minutes as Written.*

**40) JOINT REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY  
MEETING MINUTES OF JUNE 6, 2001**

**Action:** *Approved the Minutes as Written.*

**CLOSED SESSIONS:**

City Attorney/Agency Council Leichter announced that only closed session item no. 1 would be considered this evening.

**1.**

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

Legal Authority:	Government Code 54956.8 & 54956.9(c) (1 potential case)
Real Property(ies) involved:	APN 728-31 -007 & 008; 25 .50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)
City Negotiators:	Agency Members; Executive Director; Agency Counsel; and F. Gale Conner, special counsel
Closed Session Topic:	Potential Litigation

**2.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(b)  
(1 potential case)

**3.**

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

Legal Authority:	Government Code 54956.8 & 54956.9(c) (1 potential case)
Attendees:	Council Members; Helene Leichter, City Attorney; Ed Tewes, City Manager
Closed Session Topic:	Potential Litigation

**PUBLIC COMMENT**

Mayor Pro Tempore/Agency Member Sellers opened the closed session to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Mayor Pro Tempore/Agency Member Sellers adjourned the meeting to closed session at 9:30 p.m.

**RECONVENE**

Mayor Pro Tempore/Agency Member Sellers reconvened the meeting at 10:10 p.m.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney/Agency Counsel Leichter announced that the City Council/Agency Commission authorized the City to defend the lawsuit (Case Number CV799179).



**FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

No items were noted.

**ADJOURNMENT**

There being no further business, Mayor Pro Tempore/Agency Member Sellers adjourned the meeting at 10:12 p.m.

**MINUTES RECORDED AND PREPARED BY:**

*/s/ Judi Johnson*

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**Judi Johnson, Minutes Clerk**